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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,573

04/27/2006

Jung Hyun Kee

2017-074

2915

52706

7590

05/27/2009

IPLA P.A.

3580 WILSHIRE BLVD.

17TH FLOOR

LOS ANGELES, CA 90010

EXAMINER

WOOD, JONATHAN K

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,573	<b>Applicant(s)</b> KEE, JUNG HYUN	
	<b>Examiner</b> JONATHAN WOOD	<b>Art Unit</b> 3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the translation of Korean Patent No. 20-0247187 to *Gi (Gi)* in view of US Patent No. 5,037,007 to *Deussen (Deussen)*.

*Gi* shows a dispenser with a sealed dispensing valve unit secured to a mouth of a hermetic casing (10) (Figure 2), and which discharges contents through a center of an upper plate of a concave-dish shaped button (40) (¶ 21, ll. 1-5), the dispenser comprising an outlet hole (47) bored in a concave central portion of the button (Figure 2) and a dispensing valve (50) cooperating with the outlet hole to close the dispenser when not in use.

*Gi* fails to disclose the particular characteristics of the dispensing valve and outlet hole, including the outlet hole having an inclined inner surface defining a lower portion thereof and being tapered from an upper portion to a lower portion, a vertical inner surface extending from the upper end of the taper and the dispensing valve having a corresponding structure with a diameter and height slightly smaller than that of the outlet hole.

However, *Deussen* shows a dispenser with an outlet hole (12) having an inclined inner surface (22a) at a lower portion thereof and tapering from an upper portion to a lower portion (Figure 2), and a vertical inner surface (15) extending from the upper portion of the inclined inner surface. *Deussen* further shows a dispensing valve (13) having a matching inclined surface (20a) to that of the outlet hole and a vertical surface (14) extending from the upper portion of the inclined surface, wherein the outer diameter and height of the vertical surface are smaller than those of the outlet valve (inherent). It would have been obvious to one having ordinary skill in the art at the time of the invention, under the teachings of *Deussen*, to have replaced the existing outlet hole and dispensing valve structure of *Gi* with the outlet hole and valve structure of *Deussen* in order to facilitate a reliable seal when the dispenser is not in use (*Deussen*, col. 5, ll. 1-14).

### ***Response to Arguments***

4. Applicant's arguments filed 3/4/2009 have been fully considered but they are not persuasive. Regarding page 6, ¶ 3 of applicant's arguments, applicant argues that in figure 2 of *Deussen* the tip of the dispensing valve sticks out above the edge of the

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outlet hole, which inhibits the forming of a sealing film. However, Figure 2 represents the dispensing state of the device, similar to Figure 6 of applicant's invention, where a gap is necessarily present to allow passage of fluid through the outlet hole to the user of the device. Figure 1 of *Deussen* represents the closed state of the device, similar to Figure 5 of applicant's invention, and there is no longer a hinderance to the formation of a sealing film. The remainder of applicant's arguments discusses *Gi* not teaching applicant's invention when considered independently, which examiner agrees with. However, combining the dispenser of *Gi* with the outlet and valve structure of *Deussen* teaches applicant's invention, as discussed above.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN WOOD whose telephone number is

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(571)270-7422. The examiner can normally be reached on Monday through Friday, 7:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571)272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JKW/

Examiner, Art Unit 3754

/Kevin P. Shaver/

Supervisory Patent Examiner, Art Unit 3754